

JUDGE DANIELS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

15 CV 02255

DAVE SHOSTACK,

Plaintiff,

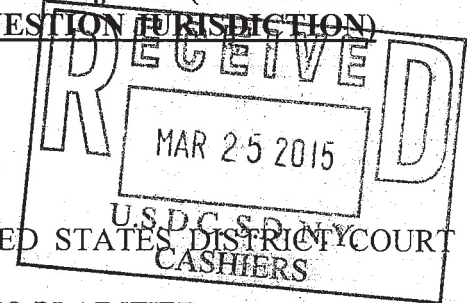
v.

BARRY DILLER CEO, IAC a.k.a. INTERACTIVE
CORP., DOUG LEBDA CEO, LENDING TREE
INC. a.k.a. LT TECHNOLOGIES,
LENDINGTREE.COM a.k.a. LENDING TREE
LLC, MATT ZURCHER CEO and HOME
ADVISOR INC.,

Defendants.

Case No. _____

NOTICE OF REMOVAL OF
ACTION PURSUANT TO
28 U.S.C. § 1331 (FEDERAL
QUESTION JURISDICTION)



TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK AND TO PLAINTIFF:

PLEASE TAKE NOTICE that defendants Barry Diller, IAC/InterActiveCorp, Doug Lebda, LendingTree, Inc., Matt Zurcher, and HomeAdvisor, Inc. (together, "Defendants"), by and through their counsel, and subject to all of their defenses, including any and all Rule 12 defenses, hereby provide notice of the removal to the United States District Court for the Southern District of New York, of the lawsuit filed November 10, 2014 in the Supreme Court of the State of New York, County of New York, entitled *Dave Shostack v. Barry Diller CEO, IAC a.k.a. InterActive Corp., Doug Lebda CEO, Lending Tree Inc. a.k.a. LT Technologies, LendingTree.com, Matt Zurcher CEO and Home Advisors LLC*, Index No. 161172/2014 (the "Action").

I. DESCRIPTION OF THE ACTION

1. Plaintiff Dave Shostack ("Plaintiff" or "Shostack") filed in the Supreme Court of the State of New York, New York County, a complaint against Defendants, alleging violations

of, *inter alia*, the federal Telephone Consumer Protection Act (47 U.S.C. § 227), the Federal Trade Commission Telemarketing Sales Rule (16 C.F.R. Part 310), the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801 *et seq.*), the federal Health Information Technology for Economic and Clinical Health Act of 2009 (42 U.S.C. §§300jj *et seq.*; §§17901 *et seq.*), the federal Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.*), and “FCC Rules,” based upon alleged violations of privacy, unauthorized release of personal information and credit checks.

2. On March 6, 2015, defendants LendingTree, Inc. and IAC/InterActiveCorp were served with an amended complaint in the Action (the “Amended Complaint”), and on March 7, 2015, defendant HomeAdvisor, Inc. was served with that Amended Complaint. None of the other defendants was served with an initial complaint or was otherwise served. The Amended Complaint alleges essentially the same violations of federal law as the initial complaint and seeks \$500,000 in statutory, compensatory and punitive damages, in addition to other costs. A copy of the Amended Complaint is attached hereto as **Exhibit A**.

3. The following is a short, plain statement of the grounds for removal, pursuant to 28 U.S.C. § 1446(a).

II. BASIS FOR REMOVAL (FEDERAL QUESTION JURISDICTION)

4. Removal of the Action under 28 U.S.C. §§ 1441 is appropriate because this Court has original jurisdiction inasmuch as the Amended Complaint includes claims under the laws of the United States, namely (a) the federal Telephone Consumer Protection Act, 47 U.S.C. § 227; (b) the Federal Trade Commission Telemarketing Sales Rule, 16 CFR Part 310; (c) the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 *et seq.*; (d) the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. §§300jj *et seq.*; §§17901 *et seq.*; (e) the Fair Credit Reporting Act 15 U.S.C. § 1681 *et seq.*, and (f) the “[Federal Communications Commission] Rules.” See **Exhibit A** hereto.

III. THE NOTICE OF REMOVAL IS PROCEDURALLY PROPER

5. Based on the foregoing, the Action is a civil action over which this Court would have original jurisdiction pursuant to 28 U.S.C. § 1331, and therefore is one that may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1446 because the Action is pending in the Supreme Court of the State of New York, New York County. In accordance with the requirements of 28 U.S.C. § 1446(a), copies of the Amended Complaint and all other papers served on Defendants in the Action as of the filing of this Notice of Removal are attached hereto as **Exhibit A**. This Notice of Removal is filed within the time provided by 28 U.S.C. § 1446(b), as it has been filed within thirty (30) days after Defendants were served with a copy of any pleading in this action.

6. Without waiving any objections to personal jurisdiction, all Defendants consent to this removal.

CONCLUSION AND REQUESTED RELIEF

For all of the reasons set forth above, without waiving any defenses to the claims asserted by Plaintiff, including personal jurisdiction, Defendants respectfully request that this Court proceed with this matter as if it had been originally filed herein.

Dated: New York, New York
March 25, 2015

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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